

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PROSHIPLINE, INC. and EP-TEAM,
INC.,

Plaintiffs,

v.

ASPEN INFRASTRUCTURES, LTD.,
f/k/a Suzlon Infrastructure, Ltd., et al.,

Defendants.

CASE NO. C07-5660BHS

ORDER DENYING PLAINTIFF'S
MOTION FOR
RECONSIDERATION

This matter comes before the Court on Plaintiff EPT-Team's ("EPT") motion for reconsideration (Dkt. 148). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby denies EPT's motion for the reasons discussed herein.

I. DISCUSSION

This admiralty case arises out of a dispute between the parties over an alleged breach of contract. For a more complete factual background see the Court's prior order vacating the writ of attachment on behalf of EPT individually and vacating the Court's prior order that reinstated the writ (Dkt. 147). EPT now moves for reconsideration of that order and for reinstatement of the writ. Dkt. 148 (arguing that the Court erred by applying American contract law instead of English contract law). The Court ordered and the parties provided additional briefing on the motion for reconsideration. *See* Dkts. 151, 153, 157.

1 In short, the parties dispute the extent to which EPT assigned its rights to PSL. The
2 Court concluded that the assignment of rights operated to prevent EPT from now
3 maintaining an action for a Rule B writ of attachment. *See* Dkt. 147. EPT, however,
4 argues that its assignment, according to the interim decision of the arbitration panel,
5 operates to permit EPT to maintain this action for a writ of attachment. *See* Dkts. 148,
6 153.¹

7 In opposition, Aspen argues that, under English law, the initial assignment of
8 rights by EPT to PSL prevents EPT from coming back now and maintaining this action.
9 Aspen cites several statements from the arbitration panel's interim decision that support
10 this conclusion. *See* Dkt. 152 at 3 (Declaration of Simon Kverndal QC) (quoting sections
11 of the Singapore arbitration panel's interim order)

12 In its order (Dkt. 147), the Court also relied on those statements in determining
13 that EPT's assignment of rights (but not obligations) prevents it from now maintaining a
14 Rule B writ of attachment action in this Court. Dkt. 147 at 6 (citing Singapore arbitration
15 panel's decision and EPT's own complaint acknowledging the assignment). The Court
16 has reviewed the English law as submitted by the parties' respective experts and
17 concludes that the arbitration panel determined that EPT assigned its rights to PSL and
18 that such assignment, consistent with English law, operates to prevent EPT from now
19 maintaining a Rule B writ of attachment action in this Court under American law. Thus,
20 the outcome in the Court's prior order (Dkt. 147) is consistent with English law.
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23 ¹This argument appears to be different from that advanced in the prior motion to reinstate
24 the writ. *See* Dkt. 147 at 6. Previously EPT argued that while its initial assignment may have
25 operated to foreclose maintaining the writ against Aspen, PSL has since reassigned the rights
26 back to EPT. *Id.* A new argument is not generally permissible on reconsideration. However, to
27 the extent this current argument merely advances a nuance on the prior argument, the argument
28 remains logically curious. If EPT has, as it suggests, always had the right to maintain the Rule B
writ of attachment action because it never assigned its rights in a way that would prevent it from
maintaining such an action, then there would be no reason to have PSL reassign the rights: EPT
would already have had such rights under its own logic. The argument remains unavailing.

1 Based on the parties' briefing and supporting declarations on reconsideration, the
2 Court concludes that EPT has not carried its burden on reconsideration and therefore, its
3 motion (Dkt. 148) is denied without prejudice. However, should EPT be able to obtain an
4 affidavit or declaration from the Singapore arbitration panel regarding its interim decision
5 that supports EPT's position regarding the operative effect of its initial assignment of
6 rights to PSL, the Court would consider a renewed motion for reconsideration.²

7 **II. ORDER**

8 It is hereby **ORDERED** that EPT's motion for reconsideration (Dkt. 33) is
9 **DENIED without prejudice** for the reasons discussed herein.

10 DATED this 8th day of March, 2011.

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13 BENJAMIN H. SETTLE
14 United States District Judge
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25 ²In its surreply (Dkt. 157) to EPT's reply to the motion for reconsideration, Aspen moves
26 to strike EPT's request for permitting inquiry to the arbitration panel to resolve the instant
27 dispute. Because the order herein provides EPT an opportunity to obtain a statement from the
28 arbitration panel regarding the operative value of its initial assignment of rights to PSL, the
Court denies Aspen's the motion to strike.